

REMARKS

Claims 1-15 and 19-63 are pending in the above-identified application. Support for new claims 29-63 is found in original claims 5-11. Original claims 5-11 were amended to delete the embodiments now properly recited in claims 29-63. Various claims have been amended in response to the issues raised in the Office Action dated March 3, 2006 as discussed in detail below. It is submitted that all of the changes to the claims are fully supported by the disclosure of the present application, such that these changes should be entered of record.

Restriction Requirement Issues

Applicants respectfully maintain a traversal against the Restriction Requirement for the reasons stated in the Response to Restriction Requirement filed December 22, 2005, which reasons are deemed repeated herein. It is again requested that the composition and treatment method claims be re-joined with the elected compound claims, upon an indication of allowable subject matter.

Removal of Objection to Multiple Dependent Claims 5-11

Claims 5-11 have been objected to as being in improper multiple dependent form. These claims have been amended so as to be in proper form, and it is requested that this objection be withdrawn.

Removal of Basis for Enablement Rejection

Claims 1-4, 12 and 13 have been rejected under 35 U.S.C. 112, first paragraph as failing to satisfy the enablement requirement because of the recitation of "solvates or solvated salts thereof". In order to expedite prosecution of this application, this expression has been removed from claims 1, 2, 12 and 13. Consequently, it is submitted that this rejection should be withdrawn.

Response to Indefiniteness Rejection

Claims 1-4 have been rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. Specifically, portions of the definitions of the following substituents have been objected to: X^2 , R^4 and R^3 . Also, the term “alkanol” has been objected to as well. Regarding the definition of substituent X^2 , this definition has been amended such that “ C_{1-3} alkylene” is recited, as suggested in the Office Action. The specification has also been amended to be consistent with the claims. Thus, this basis for the rejection has been removed.

Regarding the definition of R^4 , it is submitted that both the expressions “ C_{0-3} alkylhydroxy” and “ C_{0-3} alkyldimethylamino” are clearly defined in the specification. Note page 7, lines 15-19 of the specification which states that if the subscript integer is zero, then that group is absent. In other words, the alkyl portion of each of these terms is optionally absent. A person skilled in this technological area easily understands these definitions, such that there is no reasonable basis for asserting indefiniteness. Consequently, it is submitted that this basis for the rejection should be withdrawn.

Regarding the definition for substituent R^3 , this definition has been corrected to properly insert a misplaced comma consistent with the description at page 11, lines 27-32. Consequently, this basis for the rejection has been removed.

Regarding the term “alkanol”, it is noted that this term is defined at page 8, lines 9-12 of the specification. It is clear from this definition, as well as the context of the formulas and the examples, that an alkanol group is an alkyl group which contains an hydroxyl group. There is no evidence of indefiniteness presented in the Office Action, such that this basis for the rejection fails to be supported and should be withdrawn.

Removal of Basis for Anticipation Rejection

Claims 1-3 have been rejected as being unpatentable over Keir and MacLennen, "Ethyl Amidinoacetates in the Synthesis of Pyrazines," J. of Chemical Soc., Perkin Transactions 1, vol. 9, pages 1002-1006 (1978). This rejection is traversed for the following reasons.

Keir and MacLennen discloses one compound which falls within the scope of formula I in claim 1, i.e. 3-amino-5,6,7,8-tetrahydrobenzo[b]pyrazine-2-(N-cyclohexyl)carboxamide. This is compound "3s" mentioned at page 1006.

Claim 1 has been amended to exclude this compound. This amendment to claim 1 is appropriate, since formula I encompasses this compound as a species within the recited genus. Note that it is acceptable to disclaim a portion of a disclosed genus. *In re Johnson*, 194 USPQ 187, 196 (CCPA 1977); *Ex parte Parks*, 30 USPQ2d 1234, 1236 (BPAI 1993); and MPEP 2173.05(i), page 2100-223, Rev. 3, August 2005.

Keir and MacLennen fails to disclose or suggest any other compound falling within formula I, or the other pending claims. Further, Keir and MacLennen fails to provide a motivation to one skilled in the art to form any of the other claimed compounds, since this reference fails to address any issues associated with the uses of the compounds of the present invention, including employment as metabotropic glutamate receptor antagonists and the treatment of neurological, psychiatric, pain or gastrointestinal disorders. Consequently, significant patentable distinctions exist between the present invention and the Keir and MacLennen reference.

It is submitted for the reasons stated above, that the presently pending claims define patentable subject matter such that the present application should be placed into condition for allowance.


If any questions arise in the above matters, please contact Applicant's representative, Andrew D. Meikle (Reg. No. 32,868), in the Washington Metropolitan Area at the phone number listed below.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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By 
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